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February 11, 2022

Via ECF

The Honorable Alvin K. Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Defendant writes to point out that I issued my order of February 9, 2022 before defendant had an opportunity to file an opposition to the Government's motion. Defendant is correct. I vacate my order of February 9, 2022 (ECF No. 77), without prejudice to the ruling I shall make after considering both the Government's and the defendant's submissions. Defendant's opposition is due February 18, 2022.
/s/ Alvin K. Hellerstein
February 14, 2022

Re: *United States v. Cliver Alcala Cordones*, 11 Cr. 205 (AKH)

Dear Judge Hellerstein:

We write to respectfully request that the Court reconsider its grant of the government's *ex parte* motion for a protective order pursuant to Section 4 of the Classified Information Procedures Act ("CIPA") and Rule 16(d)(1) of the Federal Rules of Criminal Procedure ("Section 4 Motion") until the defense has submitted its opposition to that motion.

By Order dated September 30, 2021, the Court set the deadline for the filing of the government's CIPA Section 4 Motion as December 1, 2021, and the deadline for the filing of any opposition by the defense as December 8, 2021. *See* ECF No. 54. On November 19, 2021, the Court granted the government's motion and adjourned the deadline for the filing of the government's Section 4 Motion to February 1, 2022, and the deadline for the filing of any opposition by the defense to February 8, 2022. *See* ECF No. 56. On January 28, 2022, the Court granted the government's motion and adjourned the deadline for the filing of the government's Section 4 Motion to February 8, 2022, and the deadline for the filing of any opposition by the defense to February 15, 2022. *See* ECF No. 72.

On February 8, 2022, the government submitted the Section 4 Motion to the Court. *See* ECF No. 76. The next day, on February 9, 2022, the Court granted the government's Section 4 Motion. *See* ECF No. 77.

We respectfully request that we be given an opportunity to respond prior to the Court granting the government's motion. This is consistent both with the Court's past orders in respect to deadlines surrounding the Section 4 Motion and the practice and procedure followed by courts in this Circuit in cases involving CIPA. *See, e. g., United States v. Liu*, 19-cr-804 (VEC), 2021

U.S. Dist. LEXIS 145121 (S.D.N.Y. July 8, 2021) (granting government's CIPA Section 4 motion approximately fourteen months after submission made to the Court by the government and eleven months after defendant submitted opposition to the Court).

Accordingly, we respectfully request that the Court reverse its decision to grant the Section 4 Motion and provide an opportunity for the defense to submit an opposition to the government's motion. We ask that the defense be given until Friday, February 18, 2022, in which to submit its response. The undersigned remains out of the office due to a family medical emergency since Sunday, February 6, 2022, and, thus, we require a few extra days in which to complete our response.

Respectfully submitted,

/s/

César de Castro
Valerie A. Gotlib
Adam S. Kaufmann
Cristián Francos

cc: All Parties (*via* ECF)